

MAR 10 2008

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

MOLLY DWYER, ACTING CLERK  
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

EDUARDO HERNANDEZ-  
HERNANDEZ,

Defendant - Appellant.

No. 06-30433

D.C. No. CR-06-02057-AAM

MEMORANDUM \*

Appeal from the United States District Court  
for the Eastern District of Washington  
Alan A. McDonald, District Judge, Presiding

Submitted February 26, 2008 \*\*

Before: BEEZER, FERNANDEZ, and McKEOWN, Circuit Judges.

Eduardo Hernandez-Hernandez appeals from the district court's order denying his motion to dismiss the indictment charging him with being an alien in

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

the United States after deportation, in violation of 8 U.S.C. § 1326. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Hernandez-Hernandez contends that the district court erred by denying his motion to dismiss the indictment because his underlying deportation was invalid. We conclude that Hernandez-Hernandez has not demonstrated a plausible ground for relief from deportation, pursuant to 8 U.S.C. § 1182(h). *See United States v. Muro-Inclan*, 249 F.3d 1180, 1185-86 (9th Cir. 2001). Although Hernandez-Hernandez contends that his deportation is causing extreme hardship to his father, a lawful permanent resident, his contention is belied by the fact that his father previously lived in the United States for at least twelve years before his arrival. *See id.*

**AFFIRMED.**